IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 567 OF 2003

IN

SUMM.SUIT NO.1257 OF 2003

Devi Uttamchand Ailani .. Plaintiff

versus

Heena Eng.Corpn & ors .. Defendants

...

Mr. R.D.Dave i/b N.N.Vaishnava for Plaintiff.

Ms.Mridula Bhatia for Defendants.

CORAM : D.G. KARNIK, J

DATED : 16th March 2005.

P.C:-

1. Heard learned counsel for the plaintiff and the defendants. Learned counsel for the plaintiff hands in the affidavit of service. Learned counsel for the defendants admits receipt of the Summons for Judgment. Despite service of the Summons for Judgment as far back as July, 2003 no application for leave to defend is made nor any affidavit in reply filed. Hence, the

plaintiff is entitled to a decree under order 37 Rule 3 (6) of the Code of Civil Procedure.

2. Learned counsel for the defendants hands in the original bill of exchange produced along with a list. The bill of exchange is taken on record and marked A.

3. I have perused the plaint and the original bill of exchange. For valuable consideration the defendant no.1 drew a bill of exchange on the defendant no.2. The defendant no.2 signed the acceptance on the bill. The defendants failed and neglected to pay the money. Hence, the plaintiff has filed this suit. In the absence of any affidavit in reply the averments made in the plaint are deemed to be accepted. For these reasons, Summons for Judgment is made absolute and suit of the plaintiff is decreed as follows :

> " The defendants shall pay to the plaintiff a sum of Rs.63,000/- together with interest on the principal sum of Rs.50,000/-at 9 % p.a. from the date of the suit till payment and all costs of the suit. "

D.G.KARNIK, J